IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 31557 of 2007(F)

PETITIONER:

ROSHNA E., D/O.C.E.MOIDEENKUTTY, AGED 20 YEARS, CHAMMALIL HOUSE, CHELEMBRA, KOLAKKATTUCHALI, MALAPPURAM - 673 634.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE ADMISSION SUPERVISORY COMMITTEE FOR PROFESSIONAL COLLEGES REPRESENTED BY ITS MANAGER, RAM MOHAN PALACE, (OLD HIGH COURT BUILDINGS) HALL NO.VIII, ERNAKULAM - 682 031.

3. THE DIRECTOR, M.E.S. MEDICAL COLLEGE, PERINTHALMANNA, P.O.PALACHODE, MALAPPARAMBA, (VIA) KOLATHUR, MALAPPURAM DISTRICT - 679 338.

4. THE PRINCIPAL, M.E.S.MEDICAL COLLEGE, PERINTHALMANNA, P.O.PALACHODE, MALAPPARAMBA (VIA) KOLATHUR, MALAPPURAM DISTRICT - 679 338.

BY SRI.BABU KARUKAPADATH, SC, MES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON 18/12/2007 DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 31557 OF 2007 F
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Dated this the 18th day of December, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext.P10 and to direct the respondents 3 and 4 to grant admission to the petitioner for MBBS course 2007.

2. Ext.P10 is an order passed by the 2nd respondent holding that the management has not acted in an unfair or improper manner in dealing with the admission in the case of the petitioner. It is the contention of the petitioner that in the college of respondents 3 and 4, there arose a vacancy on 10/9/07 and the college authorities purposefully delayed intimation to the petitioner and sent Ext.P8 telegram only on 28/9/07 requiring the petitioner to appear on 29/9/07. It is stated that the telegram was served only on 3/10/2007. It is the contention of the petitioner that such delay was deliberate and was intended to deprive the petitioner of her chance to get admitted in the College. It is on this basis, the complaint was

filed before the 2nd respondent, which was rejected by Ext.P10.

3. In view of the above contention of the writ petitioner, this court had directed the standing counsel, who appeared for respondents 3 and 4 to file a statement and accordingly, statement dated 6th November, 2007 was filed. Answering the contentions, it is stated in para 7 that no vacancy arose on 10/9/07 for MBBS course as contended by the petitioner. According to the Management, two consequential vacancies for MBBS course arose on 27/9/07 on allotment of two candidates to some other college and that the management received intimation about the same only on 28/09/07 morning. It is stated that immediately, the respondents had sent telegram to four candidates in the waiting list including the petitioner directing them to report for admission on or before 5 P.M on 29/9/07. It is also stated that the petitioner had provided her father's mobile number for communication and that despite the respondents trying continuously to contact her father, the number was unreachable. Therefore, they had managed to trace out her residence number by contacting the concerned telephone exchange and conveyed the message to her mother on 28/9/07 at 12:40:06. It is stated that the petitioner was not available at

her house at that time and that her mother had revealed that the petitioner had already joined an Engineering college. It is stated that in these circumstances the seat thus remaining vacant was filled up by allotting the same to another candidate in the waiting list on 29/9/07. The respondents also would state that in terms of the orders passed by the Supreme Court, the admission process had to be completed by 30th September and as 30th September, 2007 happened to be a Sunday, the respondents had to close the admission by 29th September, 2007.

4. As already noticed, the only contention that is raised was regarding the belated receipt of the telegram from the respondents 3 to 4. It was argued that they had deliberately delayed the despatch of telegram for malafide reasons. The latter contention is raised on the assumption that though the vacancy arose on 10/9/07, intimation was issued only on 28/9/07. As far as the vacancy position is concerned, the respondents in their statement have asserted that the intimation of the vacancy was received by them only on 28/9/07. This contention of the respondents stand unrebutted. If that be so, the argument of the counsel for the petitioner that despatch of the telegram was deliberately delayed cannot be accepted. It is

also the contention of the management that they had contacted the petitioner's mother on 28/9/07 and that contention is also unrebutted. If that be so, even if the telegram reached the petitioner only on 30th of September, 2007, that does not improve the case of the petitioner in any manner. For all these reasons, I do not find any merit in the writ petition.

Writ petition is dismissed.

ANTONY DOMINIC, JUDGE.

Rp